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A FULL AND ACCURATE
R E P O R T
O F T H E
T R I A L

B E T W E E N

The Reverend JOHN STEPHENS,

TRUSTEE TO E. BOWES,

C O M M O N L Y C A L L E D

COUNTESS OF STRATHMORE,

A N D

ANDREW ROBINSON STONEY BOWES, Esq.

HER SECOND HUSBAND;

I N T H E C O U R T O F C O M M O N P L E A S,

B E F O R E T H E R I G H T H O N . ALEXANDER L O R D LOUGHBOROUGH,

A N D A S P E C I A L J U R Y ,

O N M O N D A Y , M A Y 19t h , 1788:

O N A N I S S U E D I R E C T E D O U T O F T H E H I G H C O U R T O F C H A N C E R Y .

T A K E N I N S H O R T H A N D .

THE THIRD EDITION, WITH CONSIDERABLE ADDITIONS.

L O N D O N :

P R I N T E D F O R G E O R G E K E A R S L E Y , I N F L E E T - S T R E E T .

M D C C L V I X .



T R I A L, &c.

STEPHENS, *Trustee of E. Countess of STRATHMORE,*
against ANDREW ROBINSON BOWES, Esq.

Counsel for the Plaintiff.

Mr. SERJ. ADAIR,
Mr. LAW,
Mr. SERJ. LE BLANC,
Mr. SERJ. LAWRENCE.

Attorney, Mr. Farrer.

Counsel for the Defendant.

Mr. PARTRIDGE,
Mr. SERJ. BOND,
Mr. CHAMBRE.

Attorney, Mr. Wiltshire.

THIS was an *issue* directed out of the HIGH COURT of
CHANCERY, to the Court of *Common Pleas*, and the
case from which it sprung was simply this—

The Countess of Strathmore, on the 17th of January, 1777,
executed a deed to trustees, whereby she vested in them, to
her own sole use, all her estates, real and personal.

She soon after married the defendant *Andrew Robinson Stoney*,
Esq. who took upon him the name of Bowes.

On the 1st of May, 1777, Lady Strathmore executed a se-
cond deed, whereby she revoked the first deed, and vested *all*
her estates in her husband.

The question was, Whether this second deed was obtained by
durets? B Mr.

MR. SERJEANT ADAIR opened the case on the part of the plaintiff; in doing which he went through the whole history of Mr. Stoney's life. Stated that he had married a lady of fortune, near Newcastle, who soon after died. That having spent the money he got by her, and become a bankrupt in fame and fortune, he conspired with Parson Bate, then editor of the Morning Post, to impose upon Lady Strathmore; and, to execute their plan, a sham duel was fought, under pretence of vindicating Lady Strathmore from libels inserted in the Post by Parson Bate, in which duel nothing really suffered but a looking-glass, broke by the combatants: that Mr. Bowes pretended to have been wounded; and Lady Strathmore, impressed with gratitude for his supposed gallantry and sufferings, in vindication of her character, had generously given him her hand—had raised him from indigence and obscurity to affluence and situation. Previous to this unfortunate marriage, however, she had providentially executed a deed, dated 17th of January, 1777, securing her estates to herself; but soon after her marriage, when her spirit was broken with continual and unexampled ill-usage, when she had no free will of her own, her ungrateful, her cruel husband extorted from her a deed of revocation, dated May 1st, 1777, vesting all her estates in him. This deed he considered void for two reasons: First, there was no value given: secondly, it was obtained under the influence of terror and fear. As to the first point, Mr. Stoney could shew no value; he brought her a broken fortune, and debilitated constitution, for her manors, castles, lands, titles, honours, and estates—His income was a half-pay lieutenancy; her rental was fifteen thousand pounds a year. To shew the dross, he stated the ill usage Lady Strathmore had received during



during her marriage. That she had been deprived of her liberty in every respect. The use of her carriage was denied her, unless with his previous permission. Her own old servants were discharged, and the new ones engaged ordered not to attend the ringing of her bell. She durst not write a letter without his inspection, nor look into one sent her till he first perused it. She was treated with foul language, often chastised with blows, and had frequently received black eyes from his savage hands. She was drove from her own table, or often forced to sit at it in company with his prostitutes, till at last she was forced to fly from her house, and apply to the law for justice. These, and many other instances of cruelty were stated by the Recorder, as were also the whole process of the conviction of Mr. Bowes, for a conspiracy, in carrying off Lady Strathmore, while a suit for a divorce, instituted by her, was depending in the Ecclesiastical Court. He then examined the nature and operation of the deed of revocation. He observed upon it, that it left nothing for Lady Strathmore, but excluded her from disposing of the most trifling part of her own property, and did not even make a provision for the children she might have by Mr. Bowes : that she had never read it — he doubted if she ever signed it ; and it was such a deed as no friend would have advised her to have signed. He then stated to the jury, that the only question they had to try was, whether the deed *was* or *was not* obtained by *duress*—and proceeded to call witnesses.

Mr. Wilson said, he had been partner with the late *Mr. Peele*, an attorney, and produced a counter part of the original deed of the 17th of January, 1777, found in *Mr. Peele's* escrutoire after his decease. He also produced two letters taken from his file

file of the year 1777, the one from Lady Strathmore, the other from Mr. Bowes, demanding from Mr. Peele a rental of Lady Strathmore's estates, and said he never heard of a deed of revocation.

On his cross-examination by Mr. Partridge, he said he had searched his files, but could find no other letters. That Mr. Peele had long done business for the Strathmore family. He knew Gibson, whose name appeared to the deed of revocation; knew that he lived at Newcastle, and was an attorney of eminence and reputation.

George Walker said, he had lived with Lady Strathmore before and after her marriage with Lord Strathmore, as her ladyship's footman. Never saw Mr. Stoney at his Lady's house more than once or twice, which was in January 1777, once at dinner, and once at supper. That the courtship commenced in a sham duel between Mr. Stoney and Parson Bate.

Mr. Partridge submitted, that this evidence was not admissible; the question before the court being only, whether the deed was revoked by durefs; that the manner of the marriage was irrelevant to the question, which took the parties up and respected them as husband and wife; and Lady Strathmore, when she became wife to Mr. Bowes, was liable to all consequences, whether he gained her by honourable or dishonourable means.

Mr. Serjeant Adair answered, That the question for the Court and Jury being, by what motive Lady Strathmore signed the

deed of revocation, whether from fear or affection; it was material to shew whether the marriage was brought about by surprise or deception.

Lord Loughborough thought he ought to admit the evidence, as the deed in question operated as a settlement. It lets the husband into all the marital rights, and therefore the mode in which the marriage was brought about may be inquired into.

Mr. Partridge observed, that the question was on the execution, not on the effect of the deed.

George Walker (the witness)—That after the duel, he carried a letter from Lady Strathmore to Mr. Bowes, who was in bed, and looked deadly white; he shewed him a letter from Parson Bate, and desired him to read it, and carry it to Lady Strathmore.

Mr. Partridge.—The contents of that letter is no evidence; the letter itself ought to be produced.

Mr. Chambre.—The best evidence in every case ought to be produced;—the letter is the best evidence here.

Lord Loughborough over-ruled the objection, the letter having been given the witness by the defendant. A letter so given to be read, by the plaintiff, his Lordship admitted, would not have been evidence.

George Walker (the witness) said, the substance of the letter was, that Mr. Bate sent his compliments to Mr. Stoney, and would, though not from fear, prevent any paragraphs against Lady Strathmore or Mr. Stoney from appearing in the Morning Post. Said, that Lady Strathmore visited Mr. Stoney that night, sent to inquire after his health the next day, when Mr. Stoney desired him to present his compliments to his Lady, and assure her, that the plaster she had given him last night had quite cured him. The day after this they were married, at St. James's church :—Mr. Bowes went in a chair, stooping, and appearing to be very weak. He believed it was the 17th of January, 1777.—On being questioned upon the conduct of Mr. Bowes to Lady Strathmore, the witness answered, That he first came home to Lady Strathmore's house on the Saturday after the marriage ;—General Armstrong and General Robinson, his two uncles, dined with him.—He expressed great anger that there was no champaigne in the house, and sent for some to a tavern, which came in time enough for the second course. That, some days after, a gentleman, named O'Burne, at dinner, discoursing with Lady Strathmore in French, or Italian, Mr. Bowes sent the witness to the top of the table with a message, to inform her she must answer in English. That Mr. Bowes discharged his Lady's men-servants from attending her person, and soon after sent them out of the service. That he refused her the use of her carriage ; an instance of which he knew to have happened in the month of March, 1777, when he said to her, “Don't again order the coach without acquainting me.” That Mr. Bowes saw all letters that came directed to her Ladyship. He recollects taking a letter from the post, about a week after the marriage, and bringing it to his Lady ;

on which Mr. Bowes called him a damned rascal for delivering her any letter without first bringing it to him. That about six weeks after he brought a letter to her Ladyship from Newcastle, when she said, "Keep it till Mr. Bowes comes in—I dare not receive it." He gave it then to Mr. Bowes, but cannot say whether he opened it or no. He remembered, that about a week after the marriage, Mr. Bowes desired Lady Strathmore to write a letter to Mr. Peele, her attorney, which letter he carried. Mr. Peele read it in his presence, and the substance of it was, that Mr. Peele should give up a deed in his possession, as nothing could be done without it. He recollects Lord Strathmore coming from school to visit his mother; that Mr. Bowes having dressed him in scarlet, Lady Strathmore said he was too young for scarlet; and Mr. Bowes said, "He shall wear what I please;" but on a visit to his grandmother, his Lordship's clothes were changed. He remembered a Lady, named Bowes, coming to visit Lady Strathmore at Newcastle, sending up her name, and saying, she was a distant relation; on which she was admitted to her Ladyship. That Mr. Bowes was very angry, and desired that he should never introduce any person to her Ladyship without his orders. None but the maid-servants were permitted to answer her bell. He said, That Lady Strathmore had deposited a deed with him, which he kept till the trial at Durham; and that some time after the marriage, she said to him, "George, take care of those parchments I gave you, for I fear I cannot lead my life with Mr. Bowes."

Cross-examined. Said, Mr. Bowes did not visit Lady Strath-
more

more frequently; he only remembers his dining once and supping once at her house in Grosvenor-square, as an acquaintance. He remembers Mr. Gray's visiting her often, and always thought he came as a lover: from August, 1776, to the next January, her Ladyship received his visits. Heard her say, that the deed of January, 1777, was known to Mr. Gray, and was a proof of his disinterestedness, as he had declared he would settle all her estates upon herself. He remembers the deed was executed at Mr. Peele's house, in Castle-street; that he was a subscribing witness to it, and Mr. Peele was present. Said, he was present at the marriage of Mr. Bowes and his lady. He does not know that Mr. Gray ever slept at Grosvenor-square, but often staid supper: and he supped with Lady Strathmore the night before her marriage with Mr. Stoney. Said, Mrs. Stevens was present, but cannot say what time Gray went away, nor will he swear he went away at all. Said, the marriage was performed at St. James's church. Lady Strathmore and Mrs. Stevens walked to Mr. Bowes's lodgings, in St. James's-street. They went to church in hackney chairs. Mr. Davis, a friend to Mr. Bowes, was also present. They went from church to Mr. Bowes's lodgings. Said, that Lady Strathmore interested herself very much in Mr. Bowes's interest, when he stood candidate for Newcastle, though she advised him against it; but he dressed her in diamonds, and did every thing to allure her. Said, he had not seen her Ladyship for eight years, nor received any letter from her. That he is not to receive, nor does he expect, any reward or emolument from her: That she offered to make him under-steward of her land, but he declined it, as not being equal to the task. Said, That the late Lord Strathmore died

died of a consumption, and was ill a year. He remembers but one letter coming from Mr. Bowes to Lady Strathmore before their marriage, but will not swear there were not more, as there was another footman. He believes several letters, in a parcel produced, are in the hand writing of Lady Strathmore.

Thomas Mahon said, that in the year 1777 he was valet to Captain Stoney, who lodged in St. James's-street at the time of his marriage with Lady Strathmore. That he frequently saw Mr. Davis with Captain Stoney before his marriage, and he was with him the day of the sham duel with Parson Bate. He was sent that day to Wagdan's, the gun-smith in the Hay-market, for pistols; and on coming to Osborne's Hotel, in the Adelphi, where the duel was fought, found Captain Stoney there. Mr. Stoney married Lady Strathmore two days after the sham duel. The door of the room, where the duel was fought, had been forced open by Mr. George Basil, brother to Mr. Basil, of Bucks, when the witness arrived at the hotel: he found Captain Stoney sitting on a seat. Davis and Doctor Scott were also there, with another surgeon, and Parson Bate, with his second, Captain Donellan, who was since executed. He was sent to the Fantocini, in the Hay-market, for Mr. Matraw, who was to have been Captain Stoney's second. When he came back, Doctor Scott was bleeding Captain Stoney in the arm; he fainted while bleeding: he saw no blood but what came from the lancet. On getting home, Captain Stoney went to bed, and sent for Surgeon Hawkins—who felt his pulse, but did not, as he knows, examine his person, or prescribe any thing for him. He saw two or three holes in Captain Stoney's waistcoat; can be positive to that, as

he wore it twelve months after. He did not recollect to see any holes in the shirt, or any blood on it; must have seen them, if there had been any, as it was his own shirt. Mr. Stoney did not borrow his shirt; he had a large stock, ninety shirts and neckcloths; this shirt had been given Mr. Stoney by mistake. Said, Captain Stoney was attended by Doctor Scott; Mr. Hawkins never came to him but once, and he never saw any wound upon him.

On being asked, how Captain Stoney behaved himself to Lady Strathmore after his marriage, he said, the Captain gave orders that no letters should come in or go out of the house without his knowledge. That he gave him orders to watch and bring him the names of company that came to the house-keeper's room; which he refused to do, as being beneath him, and no part of his business. Said, that Lady Strathmore one day took out the coach; Mr. Bowes ordered him to follow it, and take an account of every house it stopped at. He followed it a considerable time, then lost it, but got the information he wanted by giving the coachman a pot of beer, and gave his master an account as if he had followed it. He said, that the use of the coach was denied to Lady Strathmore. That Mr. Bowes sent him one day into the drawing-room for his hat and cane;—Lady Strathmore told him, it was in the dressing-room, where he went, and found it. Mr. Bowes followed him, and said, "Damn your blood, you did not expect to find me here." He went down, and presently heard a scream, on which he ran up: Mr. Bowes drew his sword, and bid him go down; on which he ran down faster than he came up.....Next morning Lady Strathmore had a

black

black eye. Said, he believed Lady Strathmore was much afraid of Mr. Bowes.

On his cross-examination he said, that Parson Bate did not appear to have been wounded: his breeches were torn upon the thigh, and it appeared to have been done with a hot poker. Donellan was to have been Bate's second, and expressed much dissatisfaction at seeing the point of his sword bent; but neither of the seconds were present at the duel. He said he never saw Mr. Gray but once, could not say whether Mr. Gray was or was not in the house that Lady Strathmore's carriage stopped at the day he was ordered to follow it: acknowledged that Mr. Bowes expressed great surprise at seeing him in the dressing-room of Lady Strathmore, when he went for the hat and cane. That Mr. and Mrs. Stevens left the family soon after the election at Newcastle: that Mr. Bowes and Lady Strathmore went out in the phaeton the day after he was in the dressing-room: can form no idea of Mr. Bowes's motive for being angry at seeing him in the dressing-room, or of sending him after the coach. Thinks he had no reason but his own disposition for watching her.

George Walker came into Court of himself, to say, that he had forgot to mention his having been sent for by Lady Strathmore, and staying twelve days in the house at Grosvenor-square, till she got away.

Ann Mahon said, she lived with Lady Strathmore before her marriage with Lieutenant Stoney, and till the middle of June following. That her Ladyship was denied the use of
her

her coach ; her men-servants had orders not to answer her bell ; she was hardly suffered to go from one room to another without leave ; and all letters that came directed to her were first carried to Mr. Bowes. She knew Mr. and Mrs. Stevens ; they left Mr. Bowes's house in April. When asked if she recollects any particular circumstance of ill usage received by her Lady from Mr. Bowes, she said, that one day, Lady Strathmore being dressed to go out, she went into Mr. Bowes's dressing-room, but soon returned, very much dejected and biting her lips ; her Ladyship's hat appeared torn, the ribbands were cut ; she appeared to have received a blow on the eye, which was swelled and red. The next morning her eye was black, and she had also a black spot on her shoulder, such as is produced by a blow. After Lady Strathmore married Mr. Bowes, she gave no orders to her servants ; she did not know who did ;—never knew her to give orders to her tradesmen after her marriage with Mr. Bowes :—she always appeared dull and low spirited—frequently in tears—and trembling whenever she heard Mr. Bowes coming. Said, that before Lady Strathmore married Mr. Bowes, her natural temper was affable, mild, and cheerful, but after marriage it was very different.

On her *cross-examination* she said — That she was Lady Strathmore's woman ; her husband was Mr. Bowes's man, and he might have parted with his master on a quarrel. She never heard Lady Strathmore order her coach, neither did she ever hear Mr. Bowes restrain her from having it. The footmen were prevented from attending her, the women from

talking to her. At Newcastle, Lady Strathmore frequently went out—but never heard her say any thing about the election.—The bonnet and ribbons were torn before dinner.

Ann Bell said, she came to live with Lady Strathmore the year before Lord Strathmore died—her Ladyship's disposition was good—she lived in the family three years after the marriage—did not see Mr. Bowes often. On being questioned on particular acts of ill usage, she was proceeding to state evidence of something that happened in 1778;—she heard Mr. Bowes—

Mr. Partridge objected—He said the issue confined the evidence to acts prior to the execution of the deed, dated 1st of May, 1777, and that nothing subsequent to that event could be given to the jury.

Mr. Serjeant Adair answered, that this objection was important, a great portion of his evidence being liable to it. He trusted it would not prevail with the Court, as subsequent evidence was relevant to the issue; the question directed to be tried by the Chancellor being,—Whether there was an influence over Lady Strathmore when she executed the deed, or whether it was by her free will and consent; and that must be collected by posterior as well as anterior evidence, every thing being proper evidence that tends to shew that influence, which must be collected not from particular instances, but the uniform conduct of Mr. Bowes during his connection with Lady Strathmore. The oppression was one

deliberate system, carried on to make the Lady a mere puppet, to serve the purposes of her husband.

Lord Loughborough. — No subsequent conduct of Mr. Bowes can invalidate this deed; but all *directions* from and out of the mouth of Mr. Bowes is competent.

Mrs. Bell. — In the last year she lived in the family she was Miss Bowes's maid.

Mr. Chambre. — The question must be confined to what is evidence.

Mrs. Bell. — "I first saw Mr. Bowes, at Grosvenor square."

Mr. Serjeant Adair. — "What passed upon that occasion?"

The question was over-ruled by the Court—and the witness was directed to confine herself to what she had heard Mr. Bowes say.

Mr. Serjeant Adair. — What orders have you heard Mr. Bowes give to Lady Strathmore?

Mrs. Bell said, She had heard him order her not to communicate any ill usage she received from him. — She heard him give these orders at Streatham, in London, and at Gibside. (The witness stopped.)

Mr.

Mr. Partridge objected to general evidence; he insisted that the witness should confine herself to the precise time of violence before executing the deed of revocation.

Lord Loughborough.—Hear her answer. The Counsel cannot be stopped from asking a question that is proper, though the answer may be improper.

Mr. Serjeant Adair argued, that time and place were not necessary.

Mr. Chambre said — That the witness shculd not answer the question, because it comprehended an inquiry into facts subsequent to the execution of the deed, which shculd not be given in evidence.

Lord Loughborough — “ I think the question should be “ put.”

Mrs. Bell, being then questioned to the conduct of Mr. Bowes, said, That his orders were a great deal in command. That his whole behaviour was cruel and ill-natured in general, and not confined to particular instances. That she heard Mr. Bowes order Lady Strathmore to tell the servants she had got the black eye by accident.

Mr. Serjeant Adair now said, he would go on with a series of evidence, to shew ill usage on the part of Mr. Bowes to Lady Strathmore, during the whole time he was with her. He infisted he had a right so to do, and instanced proceedings,

on indictments and actions for conspiracies, where evidence of subsequent facts might be given, as well as that before. He also quoted a case in point, upon a usage determined in the King's Bench.

Mr. Law said, this action was in nature of a conspiracy.

Lord Loughborough said, there was not a doubt in respect to a usage, but directed the counsel for Lady Strathmore to go through the evidence of facts antecedent to the deed.

Ann Charlton said, That in the year 1777, she frequently visited Lady Strathmore—she was a milliner, and worked for her Ladyship. That Lady Strathmore had given her directions for a particular trimming, but afterwards countermanded them, saying, Mr. Bowes had ordered her not to have it. She said, that Mr. Bowes's conduct to Lady Strathmore was ill-natured and contemptuous, and recollects seeing a mark on her Ladyship's face in the month of April, 1777. Said, That after Lady Strathmore's marriage with Mr. Bowes, she was melancholy; but before it always smiling. She was not the least mistress of her own actions. When she heard Mr. Bowes on the stairs, she was agitated, and trembled.

On her cross-examination, she said, Lady Strathmore always appeared frightened when she heard Mr. Bowes. That she never saw him cruel by any particular act, but by speaking ill-naturedly. He owed her money for Lady Strathmore's millinery, and she was obliged to sue him through two courts.

Ann Woodhead said, She lived with Lady Strathmore, as cook, before her marriage; that after her marriage all orders were given as coming from Mr. Bowes; and those given by herself did not seem to come from her own free-will.

Elizabeth Gardner said, She was employed to wait on the young ladies, Lord Strathmore's daughters. Knew nothing of Mr. Bowes's orders respecting the letters. That Lady Strathmore always appeared in fear of Mr. Bowes. If she heard him coming, was afraid of opening her mouth.

Margaret Garret said, She lived with Lady Strathmore both before and after her marriage with Mr. Bowes. That after marriage her Lady shewed great alteration in her deportment. That soon after the Newcastle election, she saw the torn hat which belonged to her Lady, and also saw her Lady with a black eye. Her Lady appeared dejected, and to have no will of her own..

Robert Syrett said, He was groom of the chambers, and came to live with Mr. Bowes the day after his marriage with Lady Strathmore. That the carriage was always ordered by Mr. Bowes, and he believed his Lady could not have it but by Mr. Bowes's orders. Mr. Bowes ordered him to go out with the carriage when she went; but, being groom of the chambers, he refused to go behind it. Lady Strathmore seemed always uneasy at Mr. Bowes's approach.

Francis Bennet said, He was game-keeper to Lady Strathmore before her marriage. That in the month of February,

1777, they came to Newcastle, and went from thence to Gibside. That he occasionally waited at table, and observed that Lady Strathmore continually watched Mr. Bowes's motions, and when going to take a glass of wine with a gentleman, he would make signs to prevent her. Said she always appeared under fear; had formerly gone very much into the garden, but after her marriage she could not go into the garden without his leave.

Launcelot Hum said, He lived as footman with Mr. Bowes. That Lady Strathmore seemed to have no direction in the house. All letters directed to her she sent to Mr. Bowes, and he returned to her such as he thought proper. That one night, hearing something heavy fall in the drawing room, he ran up stairs, and saw Mr. Bowes lifting Lady Strathmore off the floor. There was no furniture near her, and the floor was carpetted. Mr. Bowes ordered him to send for a hackney-coach, which he did, and Mr. Bowes went into it with Lady Strathmore. It was then eleven o'clock at night; they returned at three in the morning, and the next day he saw that his Lady had a black eye. He said he had desired the groom to follow the coach, fearing his lady would be ill used by Mr. Bowes.

Mr. Serjeant Adair now informed the Court, that he had closed the evidence of facts, antecedent to the execution of the deed in question, and offered evidence of ill usage subsequent to that event, to shew that the execution of the deed was under the influence of fear.

Mr. Partridge argued, that the reasons offered ought not to be received. He said, the trial was in a Court of Law, and the Court was bound to advert to the record for the issue the jury were to decide upon, and that issue was, whether the deed was, or was not obtained by *dureſſ*. This issue, he argued, could only be decided by evidence of the conduct of the parties at the time of signing, or by advertizing to their conduct prior to the execution; what passed afterwards was no evidence of dureſſ to be left to a jury. His client, he said, was not prepared to meet such evidence. He came to defend himself against the charge of *dureſſ*. Subsequent evidence came on him by surprise, which the Court would not allow. It was a general rule of law, that a party is not to be made subject to evidence out of the record. Therefore, only prior, and not subsequent, evidence could be given.

Mr. Serjeant Bond said, he was only prepared for the averment on the record. When Lady Strathmore signed the deed, she acted not under the fear of subsequent consequences; and he considered that the issue only directed them to inquire what were the impressions made on Lady Strathmore's mind at the time she executed the deed. In point of law, he argued that a threat to a wife, a child, or a servant, was not dureſſ; and, in all cases, fear must hang over the head of the party the moment he acts; and that fear must be of life, limb, or mayhem, or the situation of the person is not legal dureſſ. There was a case in 11th. Mod. where it is laid down, that to constitute dureſſ, the *threat* must be eminent; at the time of executing the instrument it must be immediate.

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The Plaintiff has given no evidence of threats at the time of executing the deed. No threats of life, of limb, or being maimed at the time. The general conduct of the Defendant is not evidence of Lady Strathmore having been in duress; such conduct might arise from her previous bad behaviour. It was not an issue upon the reciprocal *tenderness* of the parties; it was a confined issue upon the single question—"Did Lady Strathmore execute the deed of revocation under *duress*?"

Mr. Chambre said, the attempt of offering evidence subsequent to the execution of the deed was new, was unprecedented; no such evidence was ever before offered on a particular fact. "Suppose," said Mr. Chambre, "they had produced no evidence *prior* to the execution of the deed, in that case they would not have been let in to give evidence *subsequent* to it. No evidence can be received that does not advert to the single fact on the record."

Lord Loughborough said, this was an issue out of the Court of Chancery, and he was only to try if the deed of revocation was obtained from Lady Strathmore by *duress*. The Counsel for the Plaintiff had said that it was obtained by *panic* arising from long ill usage. The ill usage then, which induced her to execute the deed must have been *prior*—it could not have been *subsequent*, therefore he must reject evidence of subsequent ill usage to establish *duress*. His mind, he acknowledged, had fluctuated on the point; but he now was clearly of opinion, that *subsequent* evidence should not be admitted. His Lordship observed, that no ill treatment was charged to have been given at the time of executing the deed, and the jury were.

were to inquire into the situation Lady Strathmore was in at that time. Subsequent evidence, his Lordship thought, was too remote to try the specific circumstance which the issue directed. He was not authorised to receive it on this issue. It would be trying, by surprise, the whole of a gentleman's life and conversation for eight years. For these reasons, his Lordship thought it would be proper to stop the evidence on both sides from going into any facts subsequent to the execution of the deed, and to confine them to facts anterior to the first of May, 1777.

Mr. Serjeant Adair said, since that was the opinion of the Court, he had no more witnesses to call; and would rest his case on what had been already stated.

D E F E N C E.

Mr. PARTRIDGE requested that Counsellor Scot, of the Chancery Bar, might be examined on the part of his client, before he entered into the statement of his defence, as his stay was inconvenient.

Mr. Serjeant Adair acquiesced.

Mr. Scot said, he had visited Mr. Bowes; had seen Lady Strathmore at Newcastle election, where she appeared like a

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woman of consequence and fashion : that he could not recollect having ever dined with them or seeing them together previous to that time. That Lady Strathmore appeared anxious for her husband's success at the election ; and that many persons of respectability interested themselves in his favour. That Mr. Bowes had many private friends at Newcastle, but his great support was from Lady Strathmore's interest ; without which, he presumed, he would not have offered himself as a candidate. That he knew Doctor Scott, who was a subscribing witness to the deed of revocation, and also Mr. Gibson ; and that Gibson was an attorney of great business, and a very respectable professional man.

Mr. Partridge now addressed the Jury on behalf of the Defendant, whom he described as an unfortunate husband, unfortunate indeed ! for in consequence of his wife's conduct he was miserable and distressed. The counsel for the plaintiff had, with ability and address, attacked the passions of the jury.— In glowing colours he had described to them the ill treatment of a husband to his wife ; but the understanding, he observed, should not be seduced from the duty it owed to justice by any application to the feeling. All evidence of ill treatment, subsequent to the execution of the deed, must be laid out of the question. An impression by such evidence had been attempted, but the jury would sift what they had heard, and leave all subsequent facts out of their minds. The deed itself was the point on which the jury were to exercise their judgments ; they were called to try a simple fact, which was, Whether that deed had been obtained from Lady Strathmore by *durels*. He argued, that the legal ideas

of duress did not comprehend general ill usage. It was a technical expression, which had a specific idea annexed to it; and Lord Coke, in his first Institutes, had given three instances of *duress*. That great lawyer said, it arose from menaces, in three instances: First, for fear of loss of life; secondly, for loss of member; thirdly, of mayhem. The jury therefore were to inquire, if Lady Strathmore had any reasonable fear of losing life or limb, or of being maimed, when she subscribed her name to the deed in question? So far, he said, the evidence had failed, for no such fear had appeared to have operated on her mind. It was, however, he thought, incumbent on the Defendant to shew how the deed was obtained from Lady Strathmore; and he would shew it was executed by her with a free and voluntary mind, with her full deliberation and assent. The situation of the parties, he said, had been unfairly described in the opening. He would shew what their different situations really were. Mr. Bowes was a husband defrauded of the reasonable rights of marriage: for by the original deed, which that in question was to revoke, he was defrauded of that absolute power which the law gives the husband over the personal estate of his wife, and over her real estates for her life, or while they lived together. These rights she had improperly reserved to herself, she had defrauded her husband of them, by executing a deed without his knowledge immediately previous to her marriage. He then proceeded to describe the situation of Lady Strathmore:—She lost her husband, the Earl of Strathmore, in the spring of life, and in less than five months she receives the addresses of another lover. It was clear, he said, that George Walker, her footman, knew her well—so did Mr. Gray, the first lover she had chosen,

chosen, and whose addresses she had received till the very day she married Mr. Bowes. Such conduct in a lady, he observed, did not favour much of tenderness. He was now to describe her—but how was he to do it? “I shall,” said he, “describe her by what she is *not*, rather than by what she *is*. She is not mild—she is not amiable—she has not temperance—she is not on a level with other women!” He adverted to the circumstance of the duel, of which, he said, there was no proof to shew it was fictitious; but if that was the case, the jury would recollect that the lady had two lovers, and that stratagem was fair in love, as well as in war. He then stated that the original deed gave Lady Strathmore merely an estate for life; that it was made in contemplation of a marriage with Mr. Gray he would not admit; but if it was, never having been mentioned to Mr. Stoney, of course it was *fraud* on him. He then proceeded to account for Mr. Bowes’s strictness. Lady Strathmore, he observed, kept up her connection with Mr. Gray to the very evening before her marriage with Mr. Bowes, and that accounted for his severity: for he had every reason to suppose she had indulged, and that she would continue to indulge, her lover, at the expence of the honour of her husband. One black eye only, he insisted, had been proved; and the evidence, that she received that from Mr. Bowes, was not positive—it was but presumptive.—This, as well as every other fact produced in evidence, came from very suspicious witnesses, on whose situation, he hoped, the jury would observe; they were all servants in the family whom Mr. Bowes had discharged. He thought it extraordinary, that a lady of fashion should repose a deed of great trust to the custody of a footman;

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{ yet this deed she had committed to the care of George Walker. Had she no friends? had she no relations? Her mother was living; had she no confidence in her? He then pointed out, that Walker's situation, in respect to Lady Strathmore, was such as must *naturally* bias him towards the lady, and of course weaken his credibility with the jury. He again laboured to shew, that the witnesses had given evidence but of one black eye, and none of them had proved that Lady Strathmore had received that from Mr. Bowes, nor had any individual witness spoken to two. "But suppose," said he, "it had been proved that one or two blows had been given, it does not follow that they could produce such terror on her mind as would amount to *duress*." He then read a letter, written by Lady Strathmore to Mr. Bowes, the night after the duel, in which she declared, she loved him most sincerely, and that the external wounds he had received had wounded her internally; from which he adduced, that her intention to marry him could not have been so sudden as had been represented. Mr. Bowes, he said, had not shewn that avarice imputed to him. He had not taken all he might have taken, which was a proof, that what he took was not by *duress*. He could have had the deed made to his assigns—he could have had the reversion made over to himself, and, by levying a fine, have secured it to himself in exclusion of his wife, in case Lord Strathmore's children died before they attained the age of twenty one years. Lady Strathmore, he observed, had acquiesced under the deed of revocation for eight years, during which time she had never called on Mr. Stephens, her trustee, but suffered Mr. Bowes to receive the rents and profits of the estates under the authority of that very deed, which she now calls in question. Much,

he observed, had been said of character, but neither the character of Mr. Bowes, or of Lady Strathmore, were to decide the question before the Jury. The question went to every person's property, for deeds were not to be set aside, but upon strong and indisputable evidence ; and as no such evidence appeared against the deed of revocation, he trusted that the Jury would find that the deed was not obtained by durefs.

Mr. Law desired that Mrs. Stevens should retire from the Court while Mr. Hunter was examining.

Mr. John Hunter, surgeon, said, on the deed of revocation being produced to him, that he recollects now, that he did witness the deed in question ; but when applied to a few days before, he had not immediately recollect it. Since that, upon turning the subject in his mind, he recollects some circumstances attending the execution of the deed. He recollects Mr. Bowes, or Lady Strathmore, invited him to dinner ; that Mr. Gibson and Dr. Scot were there. That conversation was introduced about a deed, and Mr. Bowes asked him if he had any objection to witness it ; to which he said no ; and signed it ; but does not recollect that it was first read. He was clear that nothing of improper restraint was used to Lady Strathmore ; if there had, he certainly should not have put his hand to the deed. He recollects Dr. Scot and Mr. Gibson both signed it.

On his cross-examination, he said, he recollects nothing extraordinary to have happened at the transaction ; and thinks, if the deed had been read, he should have remembered it. It was after dinner the deed was executed, and at the time there were bottles and glasses remaining on the table. He cannot remem-

ber whether any other person than those he has mentioned was present. He knows Mrs. Stevens, but cannot remember whether she was present or not, nor does he know at what time Mrs. Stevens left the family. He knew Lady Strathmore when she married Lord Strathmore. Being asked whether she was intemperate, he said, What kind of intemperance? He never thought she drank freely;—could not say he ever saw her drink more than a lady ought, as a glass or two of wine at dinner. He believed that Mr. Bowes, at his setting out after marriage, behaved properly to Lady Strathmore; she wanted somebody to guide her, but he thought Mr. Bowes latterly carried his conduct too far; and five or six days before Lady Strathmore eloped, he told him, "Let me give you a piece of advice;...you will lose this woman." And when he heard she had eloped, he said, "Look into the Serpentine River."

Mrs. Stevens said, she had been long and intimately acquainted with Lady Strathmore, and some time resided at her house. Her sister had lived several years in the family before her, and was in great intimacy with Lady Strathmore. That she had seen her Ladyship execute several instruments. Was resident in the family from July, 1776, till about April 11, 1777; when she went to France, and returned the end of April. On her return she lived in lodgings, but was constantly at Lady Strathmore's. Had seen her sign an instrument, which, from a conversation she had afterward with her, she supposed was a deed of revocation. She thought the deed she alluded to was executed about the latter end of April, or the beginning of May, 1777; recollects Mr. Gibson was in the room, but does

not

not recollect that Mr. Hunter, or any other gentleman, was there. She thinks the conversation she had with Lady Strathmore was in the afternoon. That Lady Strathmore asked her, if she knew what she had signed, to which she (the witness) answered, "I do not." Lady Strathmore replied, "Then I have made over all my estates to Mr. Bowes." The witness asked, "Have you reserved nothing to yourself?" Lady Strathmore answered, "Nothing; but I am sure Mr. Bowes will never use me ill." On being interrogated upon the manners and conduct of Lady Strathmore, she said, that her Ladyship was very improper in her conduct, and went to excess in eating, drinking, and clothing; that she was too familiar with her servants, and particularly improper in her conduct with George Walker. That she knew Mr. Gray, and is certain that Lady Strathmore was very improperly connected with him. That her conduct, after marriage with Mr. Bowes, was marked with more propriety than before; that she appeared, after marriage, to be mistress of her own actions, as much so as any married woman she had ever known. That Lady Strathmore had never complained of Mr. Bowes, while she resided with her; on the contrary, always spoke of him with great kindness. She never recollects such a circumstance as her Ladyship having a black eye, and it could not have happened while she was in the family. She is convinced there was no improper influence used in procuring the execution of the deed, which she saw Lady Strathmore sign.

On her cross-examination, she said, that the deed was executed in the drawing-room, but could not recollect whether there

there were bottles on the table or not. That Lady Strathmore was intemperate in her drinking of wine, and wine and water. That no advertisement was ever put in the papers, by Lady Strathmore, to procure her a husband. She was married in November, 1776. Her husband was promised a thousand pounds from Lady Strathmore, and he received it the day after she married Mr. Bowes. She knew of Lady Strathmore's improper connection with Mr. Gray, before her Ladyship married Mr. Bowes; and Lady Strathmore told her she meant to marry him when her year of mourning was up. Her husband is a clergyman, and has an annuity of two hundred pounds granted him by a joint bond from Lady Strathmore and Mr. Bowes. She recollects that Lady Strathmore did lie separately from Mr. Bowes one night at Gibside. She sometimes dines with Mr. Bowes in the King's Bench; and sometimes rides in his coach with Mrs. Peacock, a lady, of near sixty.—On being asked, by Mr. Law, if she never rode out, or sat, with a bird of lesser plumage than a Peacock, she answered, that she never did, nor did she know any young woman belonging to Mr. Bowes.

Mr. Law asked her, if Mr. Bowes had ever come out of her room at five o'clock in the morning, when the family were at Gibside?

Mr. Stevens, the lady's husband, took fire at the question, which he called a base attempt to stain the reputation of a virtuous woman; and claimed the protection of the Court.

Mr. Law said he would prove by a witness the fact he had advanced.

Lord Loughborough said, Mr. Law had a right to ask the question.

Mrs. Stevens said, she had no objection to answer the question; and added, "Upon my oath, Mr. Bowes never came out of my bedchamber, to my knowledge." She then proved several letters produced to be in the hand-writing of Lady Strathmore.

On being questioned by *Lord Loughborough*, she said, she could not recollect whether Doctor Scot, or Mr. Hunter, were present at the execution of the deed, or even whether Mr. Bowes signed it; she could only recollect being present—it was in the drawin room, and she sat on one side, at a distance.

The *Rev. Mr. Stevens* said, he was husband to the last witness. He had known Lady Strathmore and Mr. Bowes since the year 1776, but was not her chaplain. That when he married his wife she had no fortune, and he gave up a pre-ferment of two hundred pounds a year to go into Lady Strathmore's family. Mr. Bowes, he said, visited at the house as soon as he did. Lady Strathmore promised on his marriage to make good what he had given up, and to prefer him in the church. She gave him a thousand pounds to pay his debts, and he was married within ten days after he became acquainted with his wife. He said, that Lady Strathmore then resided in Grosvenor-square. He saw Mr. Bowes there frequently, visiting as a particular acquaintance, and to his knowledge, several common notes passed between Mr. Bowes and her ladyship. Mr. Gray, he said, visited as a person intending to marry her Ladyship; indeed he thought for some time

time that they were married. Mr. Gray lived in Portman-square. He continued in Mr. Bowes's family till February. He said, that Mr. Bowes's behaviour to Lady Strathmore was perfectly proper in every particular ; he must have known it had there been any ill treatment ; and after marriage Lady Strathmore's behaviour was much better than it had been before. She never complained to him of ill usage. When Mr. Bowes and Lady Strathmore went to Newcastle, he remained in town. They were absent about a month, and after the time of their return, he never saw any improper conduct on the part of Mr. Bowes, or heard Lady Strathmore complain of his behaviour to her. He has often seen Lady Strathmore's conduct inconsistent with a woman of character and fashion ; her temper was extremely capricious, and she was not easily governed. Said he left the family ten days after Mr. Bowes returned from Newcastle, and went to France with his wife ; visited them on his return in April, often saw Mr. Hunter there ; but does not recollect to have seen Mr. Gibson.

On his cross examination, he said, that he had given up a chaplaincy of a regiment, and a minor canon's office, to go into Lady Strathmore's family. That the thousand pounds he received was paid to him the day after Mr. Bowes married Lady Strathmore. He acknowledged that Mr. Bowes paid for the lodgings in which he now resided, and thought him bound so to do, as he was in town on his business. Said he had wrote letters to Lady Strathmore, with an intent to bring about a reconciliation.

In answer to Lord Loughborough, he said, that he left

the family because he was ashamed of the connection ; he had got an equivalent for what he had given up, and was glad to leave the house.

Mr. Fetherstone said, he had seen Mr. Bowes, and Lady Strathmore, both at Newcastle, and at Gibside, and Mr. Bowes's conduct was very proper.

Mrs. Gibson said, she had seen Mr. Bowes and Lady Strathmore frequently together, and their behaviour was always marked with great propriety to each other. She knew Mr. Bowes's first wife, who had twenty thousand pounds fortune.

Mrs. Abbs said, She had seen them together at Newcastle and Gibside, and never perceived the least ill conduct from Mr. Bowes to his wife.

A number of letters from Lady Strathmore to Mr. Bowes, written before marriage, were now read, several of which began with "Lady Strathmore and Mrs. Stevens present their compliments to Captain Stoney."—Several of them were invitations to dinner and supper, and they were read to contradict the evidence of Walker, who had said that Captain Stoney had never been but twice at Lady Strathmore's before he married her.—One of them was dated "*From my Tomb at Ephesus, the third of the first month.*"

FOR THE PLAINTIFF.

Mr. Lyons said, He was a relation of the late Lord Strathmore's, and never saw any sign of intoxication in Lady Strathmore.

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On his cross-examination, he said, he was a very distant relation, followed the trade of a coal-merchant, and had seen Lady Strathmore, after her marrying Mr. Bowes, only once, when Mr. Bowes was walking her round the 'Change for the inspection of the Jews, at the time he was raising annuities upon her life.

Thomas Mabon, called to prove the fact charged upon Mrs. Stevens, said, He remembers Mrs. Stevens at Gibside; it was soon after the Newcastle election. He saw Mr. Bowes, early in the morning, about five o'clock by his watch, come from Mrs. Stevens's bed-room. Said he was above stairs, and hearing the creaking of a door below, he descended four steps, and looking over the bannister, saw Mr. Bowes come out. He then went to his own room, and into bed; and Mr. Bowes called him soon after, when he answered as if he had been asleep.

On his cross-examination, he said, It was light enough to see his watch. He could not recollect the month. He was in his shirt, and got up for a very bad purpose; it was with a design to get into the room of the woman he had since married; but the door was locked, and he was disappointed. He did not get into the room; if he had he should have been apt to have jumped into the bed, and then she never would have had the honour of being called Mrs. Mahon. He said, when he looked over the bannisters, Mr. Bowes could not have been above four yards from him, and was dressed in the clothes he wore the evening before. He said, that on the night before, he would have undressed Mr. Bowes as usual; but Mr. Bowes refused his assistance, and told him he might go to-bed. He was now valet to Lord Kinnaird.

Mrs. Mahon said, There was a separate bed made up for Mr. Bowes one night at Gibside ; that as she was dressing Lady Strathmore the next day, Mrs. Stevens asked her if she had heard her door creek, and complained it had been a windy night. She had heard no noise. Mrs. Stevens lay under her.

Mrs. Gibson, Mrs. Abbs, Mr. Fetherstone, and other witnesses who were in Court, were now called upon to the character of Mrs. Stevens, and all concurred that she was a woman of the most unblemished character, universally liked in the country where she lived, and visited by the most respectable persons. Mrs. Abbs added, Mrs. Stevens had been many weeks at her house, and she never saw in any one better conduct, or more goodness of heart.

Mr. Partridge here observed upon the evidence given by Mr. Lyons and Mahon : — The former, he observed, knew nothing of Lady Strathmore's conduct after her marriage with Mr. Bowes, and the manner and impudence of the latter took all credit from him, even if he was sober ; but it was evident he was extremely drunk.

Mr. Serjeant Adair now replied on the part of the plaintiff.— He trusted the jury would observe, that no witnesses had been called to support the evidence, which, from the statement of the defendant's case, they had reason to suppose would have been produced against Lady Strathmore.

He adverted to his opening speech, and in answer to Mr. Partridge's animadversions on it, asked the jury if he had stated any thing against Mr. Bowes but his infamy in gaining Lady Strathmore's affections, and his cruelty afterwards.

Mr. Adair would have gone into an affidavit made by Mr. Bowes,

Bowes, on another occasion, in the Court of King's-Bench ; but Lord Loughborough desired him to stick to the evidence in the cause.

Being thus restrained, he told the Jury it was their duty to forget a great part of Mr. Bowes's cruelty, and recapitulating each act he had stated at his opening, told them, as he repeated each, they must forget it.

But he said it was their duty to remember the manner in which Mr. Bowes had brought about his marriage, and the cruelty he exercised upon his wife afterwards. He had counterfeited gallantry, he had counterfeited love ; but a man of honour would not have counterfeited virtues that never existed in his breast. He here entered into a number of severe observations on the duel ; called Mr. Bowes an honourable Captain, who had borrowed his servant's shirt to fight a duel— who had been bled in the arm, when he had bled no where else. On Lady Strathmore's letter he was copious. He considered it evidence of a mind naturally tender, and easily imposed on ; and declared, if the defendant's counsel had not produced it, he would have called for it. He then quoted several passages from it, particularly her declaration, " I sincerely love you ;" from whence he adduced, that the conduct of Mr. Bowes was marked with ingratitude. He differed with Mr. Partridge on his legal idea of *dureſſ*, which he said was not so restrained in its definition, as had been laid down, but included any fear or influence operating upon the party at the time of executing a deed or instrument. It was not, he said, confined to life or limb, or being maimed : fear of gross violence, or of a repetition of cruelties, would constitute *dureſſ*. The Jury, therefore, had to consider, if such fear operated on Lady Strathmore when

when she signed the deed of revocation, by which she gave to Mr. Bowes all her lands, her castles, and her mansions. The description of the parties, he said, was widely different from what had been given by Mr. Partridge.— On one side, was a lady, family, and great estates; on the other, a half-pay lieutenant, without fame or fortune. The witnesses for the plaintiff, he observed, were numerous, were consistent, and all stood unimpeached; on the other side, there were but two, Mr. and Mrs. Stevens. He would not urge any thing against the feelings of Mrs. Stevens; but he must point out, that in several particulars she had varied materially from the evidence given by Mr. Hunter. He went through, and observed upon every fact given in evidence, and concluded with saying, that from the evidence before them, the Jury were to decide, from what motive Lady Strathmòre signed the deed— whether from affection, or from fear? If from *affection*, they would find for the defendant; if from *fear*, for the plaintiff, and thereby restore her to her rights.

Lord Loughborough now gave his charge to the jury, which he commenced by observing, that they were to determine by their verdict, whether the deed, executed by Lady Strathmore, and bearing date the 1st of May 1777, was obtained by durefs?

He said, the case had been considerably extended; but he would only sum up that part of the evidence which was perfectly material. Propositions however had been stated by Counsel, which, as they affected principles of morality, he considered it his duty to observe upon them.—The first of these was the trick practised to obtain the marriage, which had been represented by the counsel in a manner that by no means suited

suited with the facts of the case : it was an abuse of terms to allege, that the happiness of either husband or wife was in view :—It was a marriage brought about by a fraud ; a fraud of such a kind, that had it been practised to obtain a hundred pounds from Lady Strathmore, Mr. Bowes must have answered for it criminally.

It had been observed by Mr. Bowes's Counsel, that the deed dated in 1777, was a fraud on the marriage rights ; but the argument was not admissible ; though, where a marriage is carried on fairly and openly by the husband, and concealment appears on the part of the wife, some interpolation is proper. Such a revocation as was made by Lady Strathmore, he thought, was not honourable, was not fair, was not what any friend would have advised her to have done.

His Lordship then recapitulated the evidence produced on the part of the plaintiff ; observing, it was necessary he should make a few observations on it before he proceeded to the defence.

As to Mr. Bowes being angry at not having champaigne at dinner, it was but a trifling circumstance, and so was the fact of his clothing Lord Strathmore in scarlet : but the first shewed that Mr. Bowes was very early in finding fault ; and in the second, the point to be attended to was, Mr. Bowes's declaration, that Lord Strathmore should wear what he pleased.

His Lordship then adverted to the question directed to be tried by the issue ; and this question he considered to be, whether the deed of revocation was obtained by duress ?—that is, whether, when Lady Strathmore executed the deed, she was under personal restraint ? — For, if the deed was ex-

ecuted by her voluntarily and with her full consent, its validity could not be affected by any subsequent conduct of Mr. Bowes.

He said it was certainly a principle in law, that every deed must stand good till impeached. This deed was impeached, and the impeachment was dures.—A dread of personal restraint, as well as actual violence, came under the idea of dures; and the nature of the violence, in his opinion, must be such as the nature of the case would admit; therefore another circumstance for the Jury to take into consideration in judging was, the fear necessary to induce the Lady to execute the deed: and this fear they should not judge of from their own feelings, but from the character, situation, and constitution of the person supposed to have acted under it.

His Lordship animadverted upon Lady Strathmore's letters, which had been produced in evidence: one of them, he observed, shewed, that, after she had been informed of the duel, she was strongly agitated, and her feelings became alive: the letter, in his opinion, indicated considerable weakness and indiscretion; for very little reflection might have enabled her to have discovered the whole cunning of the scene.

On the part of the defendant his Lordship stated, it had been given in evidence, that Lady Strathmore was guilty of gross intemperance; but supposing she had been addicted to the most corrupt intemperance, it did not appear to him, that, upon that account, she was the less liable to yield to force or fear.

His Lordship here stated the facts given in evidence for the defendant, whose defence was, that some restraints had been exercised by Mr. Bowes, absolutely necessary for the lady's good; but the evidence contradicted such defence; for it went to shew there was no restraint, no prohibition whatever; and Mrs. Stevens swore Lady Strathmore was as much mistress of her own actions as any lady she ever was acquainted with.

From these facts, his Lordship directed the Jury to conclude, and pronounce by their verdict, whether the execution of the deed in question, within three months after marriage, was the result of fear or personal restraint, operating on Lady Strathmore, when she executed it : How this deed had been settled previous to its being executed, no evidence had been given, and no evidence could be given ; then what was the evidence to shew it had been executed by duress ? Why the conduct of Mr. Bowes in the restraints he put on Lady Strathmore, in exercising a high dominion over her, forbidding her the use of her own servants, and her own carriage; in actually beating her, and, as appeared by the evidence, in giving her a black eye at two several times. These and other circumstances had been laid before the jury, for the purpose of shewing that the deed could not be the result of Lady Strathmore's own free will and inclination, but the effect of terror.

It had been advanced by counsel, that Mr. Bowes, by the deed of revocation, did not take all he might have taken ; that he might have induced her to levy a fine : But that could not have been done, as, previous to her levying a fine, she must have been examined by a Judge, to the point of giving her free consent.

In the opposite scale, his Lordship observed, there was no material evidence, except that of Mrs. Stevens : for, in respect to the other witnesses who saw Mr. Bowes and Lady Strathmore at Newcastle election, it amounted to very little. He took her with him to grace his election, and it would have been absolute insanity in him to have used her ill on that occasion.

The character given to Lady Strathmore by Mrs. Stevens was, to be sure, a very indifferent one. She expressed it in the delicate language of a woman ; but it was impossible to mistake her meaning. She had said that her Ladyship was intemperate

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in her eating, drinking, and clothing—That she used improper freedoms with her servants, particularly with George Walker, but, to her certain knowledge, she was improperly connected with Mr. Gray. But Mrs. Stevens, though she knew all this, established herself in the family, and remained in it, and married a respectable clergyman. Her marriage, his Lordship thought, was rather quick in point of time—She married, however, with the approbation of Lady Strathmore, who gave her a portion of a thousand pounds; and within a month after Mr. Stevens received a bond from Mr. Bowes and Lady Strathmore for an annuity of two hundred pounds.

Upon these circumstances his Lordship directed the Jury to consider how far the evidence of Mrs. Stevens was to have credit. If it was true, then all the servants must have sworn falsely, and were not to be believed; for this evidence of Mrs. Stevens stood alone.

His Lordship observed, that between man and wife it was very difficult to find witnesses; therefore, in this case, objections to the witnessess, on account of their situation, could not have any material weight. The evidence must be always according to the nature of the case; of course, in the present instance, minute circumstances must have weight.

It was therefore for the Jury to say, whether the deed of revocation was executed freely and voluntarily, or whether it was the effect of *duress*?

The Jury, without going out of the box, found the deed of revocation to have been executed under *duress*.

Of course the deed of revocation will be set aside in the Court of Chancery.

F T N I S.



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